

VALUATION TRIBUNAL FOR ENGLAND



Non-Domestic Rating; Valuation appeal; Local Government Finance Act 1988; Offices and Premises; Valuation Office Notice; Measurement; RICS Code of Measuring Practice; Relativity; Access; End allowance; Comparables; Local Rental Evidence; Appeal allowed in part.

RE: Waterside House, Smiths Road, Bolton BL3 2PP

APPEAL NUMBER: 420519596396/538N10

BETWEEN: Rapide Reprographics Ltd Appellant

And

Mr S Moss Respondent
Valuation Officer

PANEL: Mrs X Holt (Chairman)
Mr G Robinson

SITTING AT: Tribunal Service, Alexandra House, 14-22 Parsonage, Manchester

ON: Monday 1 February 2016

APPEARANCES: Mr J Hoskins of Evans and Payne, Appellant's Representative
Mr L Benton, Valuation Officer's Representative

Summary of Decision

1. Appeal allowed in part. The rateable value (RV) is reduced from £39,500 to £37,000 with effect from 1 December 2010.

Introduction

2. This appeal has been brought in respect of the following: In a proposal dated 24 May 2012 Mr Hoskins sought a reduction to £1 RV with effect from 1 December 2010, on the grounds that the RV shown in the list by reason of an alteration made by the Valuation Officer (VO) on 26 July 2011 is inaccurate. Mr Hoskins contended that the entry should describe the correct extent of the hereditament and the entry is excessive, unfair, incorrect

and/or bad in law. The property is held on a leasehold basis and the rent declared on the proposal was £24,400 per annum.

3. The appeal property comprises detached offices with accommodation on the ground and first floors; it has an agreed total area of 685.20 m² and was formed out of the merger of 10 to 15 previous assessments with effect from 1 December 2010.
4. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it having been overlooked by the panel.

Issues

5. The issues before the panel were the value to be attributed to the lobby area measuring 43.27 m² and whether a 10% end allowance for access should be applied to the building.

Evidence and Submissions

6. Mr Hoskins referred the panel to his statement of case and provided the panel with a submission containing, a copy of the proposal, photographs of the subject property, details of a comparable assessment, Lakeside House, copies of valuations for two parts of the property, prior to the merger. These showed that while a 10% allowance for access had been applied to the ground floor unit no allowance had been applied to the first floor unit. Mr Hoskins also provided an extract from the RICS Code of Measuring Practice and his revised valuation.
7. Mr Hoskins confirmed the areas were now agreed, as was the basic price of £56 per m². However, referring the Code of Measuring Practice Core Definitions: Net Internal Area, he accepted the lobby should be included in the measurements, as Entrance Halls were included under section 3.2 of the code but argued that no value should be attached to it. He contended that the value should be reflected in the overall assessment, as under section 3.14, Stairwells, lift-wells and permanent lift lobbies were excluded. To support this approach he referred the panel to his comparable property Lakeside House, which had a smaller ground floor area than first floor area, which he believed meant that the lobby area had been reflected in the main assessment of that property.
8. As regards access, he referred the panel to the previous valuations of Waterside House, which showed that a property on the ground floor had received a 10% allowance for access although he accepted the first floor property had not. He argued that the situation with regard to the access was unchanged and contended that the VO was wrong to remove the 10% allowance for the ground floor and considered the allowance should also be applied to the first floor as it was also affected by the access issues. Mr Hoskins therefore sought a revised RV of £33,250 with effect from 1 December 2010.
9. Mr Benton provided the panel with a submission containing a copy of the proposal, the definition of RV, a map, a location plan and four photographs of the appeal property. He also included a copy of his statement of case, which included his response to the appellant's case, the current valuation, an appeal history, an assessment summary, and details, a photograph and a location plan of a comparable property, Alder House, Slackey Brow, Kearsley BL4 8SL.
10. Mr Benton stated that the rent passing on the property of £24,400 per annum would have been agreed post December 2010 two years after the antecedent valuation date (AVD) during the recession and he therefore attached little weight to it. He confirmed that he had inspected the property on 17 April 2015 and argued that the entrance hall at the

property was used and should be included in the area of the property, under section 3.2 of the code and contended it should be included at the same price of £56 per m².

11. As regards the access, he accepted that prior to the merger a 10% end allowance had been applied to the ground floor units but having reviewed the assessment he considered this was no longer appropriate and referred the panel to his comparable property, Alder House, which was assessed at £64 per m² and in the light of that property he considered £56 per m² for the appeal property to be correct. Mr Benton therefore sought dismissal of the appeal.

Decision and Reasons

12. The panel gave careful consideration to all of the evidence presented and allowed the appeal in part.
13. In arriving at its decision, the panel was governed by rating legislation laid down by Parliament where schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:
 - 2(1) The rateable value of a non-domestic hereditament none of which consists of domestic property and none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions—
 - (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
 - (b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;
 - (c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.
14. In respect of an appeal against an entry in the 2010 rating list, the Rating Lists (Valuation Date) (England) Order 2008 requires the rental levels to be taken as those passing at the antecedent valuation date (AVD) of 1 April, 2008. The material day was that provided by the Non-Domestic (Material Day for List Alterations) Regulations SI 1992 No 556, as amended. In respect of the subject appeal, the material day is the date the list was altered with effect from, 1 December 2010.
15. The panel found that as the rent had been agreed post AVD and during the recession it provided little guidance to rental values passing at 1 April 2008 and both attached little weight to it.
16. The panel noted that the basic price was agreed at £56 per m², but while Mr Benton had applied this to the whole area of the property Mr Hoskins had contended that the Entrance Hall measuring 43.27 m² should be assessed at £0; as he considered its value should be reflected in the main assessment as he believed was the case at Lakeside House. The panel accepted that the first floor at Lakeside House was larger measuring 525.89 m², while the ground floor measured 465.18 m² but from the photograph of that property the panel noted that part of the first floor was on stilts, which could account for at least part of the difference in area.

17. Having regard to the Code of Measuring Practice both parties accepted the area of the Entrance Hall should be included, under section 3.2, in the measurement of the property and the panel was not persuaded that this should be at £0 per m² because without the Entrance Hall the first floor would be inaccessible so it must therefore have a value.
18. As regard access, the panel accepted the ground floor at the subject property had previously been given a 10% allowance for access, whereas the first floor had not. From the photographs the panel was satisfied that the access appeared unchanged from prior to the merger.
19. The panel considered the ground floor at the appeal property to be worse than the ground floor at Lakeside House because of the shared access, which had necessitated warning signs being attached to the building, whereas Lakeside House had sole access to its site. As both properties were assessed at £56 per m² the panel found the ground floor of the appeal property was disadvantaged with regard to Lakeside House and it made a line adjustment to the ground floor to reduce it to £50 per m², which equated to a 10% end allowance for the ground floor only.
20. Although, Mr Benton had argued that no allowance was justified when compared to Alder House, this property was in a different location, in Kearsley, whereas Lakeside House was on the same estate and provided better evidence.
21. As regards the first floor, the panel noted that the first floor at the subject prior to the merger had not previously had any allowance for access. The panel could see no change in the situation of the first floor pre and post-merger and found no evidence had been produced to justify an allowance being applied to that part.
22. Therefore, adjusting the line value of the ground floor only, to £50 per m², gave a revised total of £37,211, which the panel rounded down to £37,000 RV and it allowed the appeal to that extent.

Order

23. Under the provisions of Regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry for the appeal property to rateable value £37,000 with effect from 1 December 2010.
24. Under Regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making

Date: 23 February 2016

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